

# ‘Staying with the trouble’

## Sensing climate change in the Anthropocene

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Among the issues raised in the [call for contributions](#) to the symposium on ‘*Climate Justice – International Law in an Age of Catastrophe*’, we find the question whether ‘international law as we know it [is] able at all to *deliver solutions* to the climate *crisis*, or [whether] is it part of the problem’. ‘In other words’, the call for contributions proceeds, ‘the question is whether the current *crisis* can be *solved* within our current legal and economic system – or whether we need more fundamental changes’ (emphases added). In this blogpost, I want to unpack, situate and problematize some of the assumptions underlying these questions and signal other ways of thinking and acting in the Anthropocene, which I assume is what the symposium’s editors refer to as the ‘*Age of Catastrophe*’. Climate change, I will argue, is neither a ‘crisis’ nor a problem that can be ‘solved’. I want to qualify it, instead, as a condition or a ‘configuration of existence’ ([Neyrat](#), at 183) in which we ‘[become-with](#)’ climate change and ‘[stay with the trouble](#)’ it engenders. This relates to the complexity, unpredictability and uncontrollability of both the causes and the effects that living in a changing climate imply for human and more-than-human life forms. To embrace these concerns on an ontological level – as defining any form of being in the Anthropocene – implies moving beyond the modernist mindset of ‘problem-solving’ the environmental ‘externalities’ of Western ways of life. This requires a dismissal of cause-and-effect thinking that links the identification of ‘problems’ to particular ‘solutions’; the linear temporality that, based on past lessons, identifies current issues that ought to be solved for a better predicted future; and the anthropocentric interventionism where instrumental human reasoning is seen as capable of mastering a ‘[defiant Earth](#)’ or unruly nature.

Drawing on eco-philosophy and critical international relations theories, I explore alternative ways of envisaging and enacting climate justice in the Anthropocene. Inspired by theoretical and methodological proposals on [speculative realism](#) and [object-oriented ontology](#), I conceive of climate change as a ‘[hyperobject](#)’ – an entity, as coined by Morton, so massively distributed in space and time that it defies not only our understanding but also our control. Fundamentally, the analysis does not offer concrete legal solutions to the problem of climate change. It suggests, instead, a set of sensibilities – or ways of sensing and relating to climate change – that are productive to reenvision legal approaches and political perspectives attuned to the Anthropocene.

### Representations of climate justice in international law

In international law, human rights discourse and institutions are commonly employed to articulate concerns for climate justice. This [framework](#) takes into account inter- and intra-generational considerations as well as historical responsibilities of states

for greenhouse gases (GHG) emissions. Yet, certain aspects of what climate change is and what it implies evade the human rights law register, which presents important limitations to [enact](#) climate justice in terms of actors, space and time. First, the liberal victim/state binary characteristic of human rights law posits the human victim as right holder and the state as duty bearer. Co-affected victims and co-responsible duty bearers fit uncomfortably in this deontic framework. Second, the fixed territorial coordinates that constrain the paradigm of state sovereignty under human rights law do not account for the trans-territorial and non-static implications that states and non-state actors' GHG emissions have on victims under the effective control of other states. Third, the backward-looking temporality of human rights litigation hampers forward-looking and [deep time](#) thinking. Against this backdrop, calls for climate justice have also been raised by scholars advocating the adoption of a [relational](#) – rather than dichotomous – approach to human/nature interactions and interconnexions. Through a prism of ['coexistentialism'](#), this sensibility overturns the human exceptionalism of human rights law. Seen from a relational perspective, concerns for climate justice do not privilege human victims but enable politics of care in a materially embedded and horizontal fashion. This relational approach repositions the human in relationship to other life forms – human and non-human, material and non-material, animate and inanimate. With [Tsing](#), precarity thereby becomes an 'earthwide condition' (at 4), emphasizing the shared vulnerability of the entire living order. In contrast to the strict causality demanded by a human rights law-based approach to climate justice – a causality between climate-related harms and victims' rights and between the victims and the state of jurisdiction – relational sensibilities consider a much wider set of correlations of both a physical and empathic, direct and indirect, near and distant nature. In short, this ontology evokes a greater *sensitivity* to the interdependent reality we live in. In a world that continuously rips us apart from each other, with unequal patterns of suffering and deferential vulnerabilities, climate justice cannot be addressed by only thinking about the 'self' – or one's own living conditions and interests framed as 'rights' – in light of the actions or omissions of one's state of nationality or residence. Instead, we should aspire to be sensitive, to viscerally *sense* the distress caused by climate change, whether the harm directly or only indirectly impacts us as human being.

### **Sensing climate change – speculating the unknown**

The turn to *sensing* is intricately related to the [complexity](#) of climate change and the ['necessity of contingency'](#) it calls for, which concerns not only what we can or cannot know of the world and its future, but also the way in which people need to conceive of their own life in a rapidly changing climate. ['Hyperobjects'](#) like climate change can never entirely be deployed nor described, let alone controlled. No legal regulation could ever capture the complexity of the ongoing event, but only mitigate identified causes and adapt to its partial effects, while still having to cope with the continuously emerging properties of the system. The ability to *sense* climate change is thus always indirect and happens through the intermediary of its local manifestations. Indeed, '[b]y definition it is almost impossible for changes in climate to be perceived through individual experience' ([Bauer and Bhan](#), at 19). As lawyers, this realization compels us to [speculate](#) about climate change's causes and effects beyond immediate human representation and experience. This is an invitation

to engage creatively and imaginatively with 'climate change' in order to *sense* its emerging effects, even if we cannot directly or entirely relate to those. In line with Morton, a bewildering or 'dark' touch accompanies this '[ecological awareness](#)': the variety of temporal and spatial scales of climate change make us aware of how interdependent everything is, yet equally aware that we can never know everything that is happening, and that there is nowhere 'safe' to go to. As we are caught up in this '[mesh](#)' – which does by no means imply that '[we](#)' have all equally taken part in setting it up – there is no opting in or opting out, and no one can have a good conscience or clean hands. Fundamentally, however, a potentially liberating force transpires from this consciousness. As argued by [Campbell et al.](#), '[r]ather than a negative, overwhelming challenge, it gives us what we call a *bleak optimism*, characterized as organizing without hope [that we can return to the modern world that has ended], because climate change *has* already happened' (at 739). In line with the turn to [affirmative critique](#) – a new variant of critique that emphasizes affirmation as a critical tool with creative potential to incite emotional responses in everyday registers – the awareness of living in modernist ruins is embraced, rather than mourned, and triggers new and different ways of being, acting and doing [\(onto\)politics](#) in the Anthropocene.

### **Legislating the unknowable – 'becoming-with' climate change**

Applied to international law, this turn to *sensing* implies an abandonment of modernist, managerial approaches to climate change, which employ ideals of strict causality, certainty and predictability in a 'unidirectional, progressive, controlled movement towards a coherent strategic target presumed desirable', as put by [Head](#) (at 65). The complexity of climate change reduces the utility of practical reasoning and the capacity to make judgments based on past experiences or transpose lessons learned into a progressive, linear future. By defeating instrumental reasoning and ideals of scientific closure, the complexity of climate change questions the possibility of 'solving' it, which is far from implying that nothing should be done to cope with it. It implies, however, that international legal norms and practices should not solely be oriented towards a predicted future characterized by clearly defined normative objectives and policy outcomes. This instrumental 'planning mentality' is inherently self-defeating in a context where unpredictable effects of global warming, which exact causes defy our understanding, become characteristic features of our time. To 'become-with' climate change invites instead a (legal) sensibility attuned to the radical complexity and contingency of living in a warming world. Yet, one could argue that through open-ended, experimental and responsive practices attuned to the Anthropocene, it is the viability of legal systems all together that is put at risk. As stated by [Ellis](#), this viability relates to the capacity of legal orders 'to provide a certain degree of stability, predictability, and order in society, creating "islands of predictability" for actors seeking to project themselves [and their undertakings] into uncertain and highly contingent futures' (at 306). 'If these projections are to be taken as merely experimental', she continues, 'law's function could become impossible to achieve' (at 309). It therefore, she notes, seems to be precisely law's function that has to be rethought in what I have described as a process of 'becoming-with' climate change. To realign our legal imaginaries to unprecedented upheaval brought about by climate change and its [\(human\) survival](#) implications,

rather than securing the interests of international law's subjects according to present-day objectives, this function should be reoriented towards ensuring [care](#) as an ethical and political obligation to consider the more-than-human world we inhabit. Life as we know it *is* already over – what remains open is determining a form of coexistence unconstrained by present concepts, to rethink notions such as '*here* versus *there*, *person* versus *thing*, *individual* versus *group*, *conscious* versus *unconscious*, *sentient* versus *nonsentient*, *life* versus *nonlife*, *part* versus *whole* and even *existence* versus *nonexistence*' ([Morton](#), at 32).

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